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KED & ASSOCIATES, LLP P.O. Box 221200 Chantilly, VA 20153-1200			EXAMINER OYEBISI, OJO O	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/837,291  
Filing Date: April 19, 2001  
Appellant(s): KIM ET AL.

**MAILED**

**AUG 16 2007**

**GROUP 3600**

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David C. Oren  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 04/30/07 appealing from the Office action  
mailed 04/07/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The amendment after final rejection filed on 07/06/2006 has not been entered.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2003/0014318

DE LA MOTTE

7-1999

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 20-26, 28-29, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by DE LA MOTTE et al (DE hereinafter, U.S PUB. No.: 2003/0014318).

Re claim 20. DE discloses a method of matching vendors to buyers through a network, comprising: identifying whether vendors (i.e., suppliers) satisfy minimum attributes set by a buyer (i.e., suppliers are evaluated and rated in accordance with the standardized rating system, see abstract, also see "remote buyers can develop RFQ's defining both the objective configurations (i.e., product type, package size, quantity, delivery requirements, etc.) and subjective characteristics (i.e., flavor, aroma, texture, etc.) of the product. The buyer then sends the RFQ to the transaction facilitator for presentation to suppliers located throughout the world. In response, interested suppliers may develop quotations (also referred to herein as quotes or bids) to provide the product specified in the RFQ for a particular price. The suppliers' bids are sent to the transaction server subsystem

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for presentation to the buyer, who may accept a bid or make a counter-offer", see paras 0031-0032)); registering the vendors (i.e., suppliers) that satisfy the minimum attributes (see paras 0029-0030); identifying the buyer's vendor selection criteria (i.e., RFQ's, see paras 0013-0014); notifying the vendors of the vendor selection criteria (i.e., the buyer sends RFQ's for presentation to the suppliers, see paras 0031-0032); accepting bids from vendors (see paras 0031-0032); and selecting by the buyer a selected vendor from the vendors that satisfy minimum attributes according to one or more of the vendor selection criteria (i.e., buyers can activate software filters to screen offers based on product type, supplier, country of origin, etc. When a buyer finds an offer of interest, the buyer can either accept the offer or submit a counter-offer for presentation to the supplier, see paras 0032-0033).

Re claim 21. DE further discloses the method of matching vendors to buyers through a network, wherein the selection criteria comprises geographic region, business type or price (i.e., buyers can activate software filters to screen offers based on product type, supplier, country of origin, etc, see paras 0032-0033, also see paras 0021-0022).

Re claim 22. DE further discloses the method of matching vendors to buyers, further comprising notifying the selected vendor of having been selected (i.e., Once the buyer accepts the supplier's bid or counter-offer, an acceptance is transmitted to the supplier and the transaction proceeds toward completion, paras 0048-0049).

Re claim 23. DE further discloses the method of matching vendors to buyers through a network wherein the notification is through one of e-mail, file transfer protocol, integration technology, DCOM, XML, CORBA, HTTP, wireless devices or instant messaging (i.e., In any event, the RFQ is sent to each of the appropriate suppliers via the Internet such as by instant messaging, e-mail, see paras 0040-0041)

Re claim 24. DE further discloses the of matching vendors to buyers through a network, wherein the buyer provides the vendor selection criteria (i.e., RFQ's) and a database stores registered vendors that satisfy minimum attributes (see paras 0029-0030).

Re claim 25. DE further discloses the method of matching vendors to buyers through a network, wherein the buyer is prompted to input selection criteria through one or more capture forms (i.e., purchase order, see paras 0049-0050).

Re claim 26. DE further discloses a network based sales generation system, comprising: a spatial location engine (i.e., transaction facilitator) to determine criteria of a buyer and attributes of a plurality of vendors (i.e., Once a substantial number of RFQ's or bids are submitted to the transaction facilitator, the system can build a profile defining what most buyers and suppliers consider to be minimally acceptable levels of quality, see paras 0074-0075); a registering unit to register vendors which satisfy set minimum attributes (see paras 0029-0030); a database containing information regarding the registered vendors (i.e., supplier registration database, see paras 0040-0041); an analyzing unit to collect

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selection criteria from the buyer (i.e., transaction server subsystems, see paras 0040-0041, also see 0045-0046); and an engine to automatically select a qualified vendor for the buyer based on the database information and the selection criteria (i.e., software filter, see paras 0032-0033).

Re claim 28. DE further discloses the network based sales generation system as further comprising: a vendor notification unit to notify registered vendors of selection criteria entered by the buyer (see paras 0046-0047); and a bid accepting unit to receive bids from the registered vendors (see paras 0045-0046), wherein the bids are stored in the database (see paras 0034-0035), wherein one of the bids and the selection criteria are capable of being jointly tendered by a plurality of cooperating parties (i.e., the remote terminals of buyers, suppliers, and third-party service providers, allows the establishment of a global, virtual marketplace for negotiating and executing sales of goods and services, see paras 0052-0053)

Re claim 29. DE further discloses the network based sales generation system as wherein the analyzing unit comprises a dynamically generated application form to be completed by the buyer and submitted to the engine (i.e., RFQ), wherein the spatial location engine and the database use the data from the completed dynamically generated application form to select at least one qualified vendor (see paras 0040-0045).

Re claim 34. DE further discloses a method for selecting a first party for a second party for engaging in a transaction, comprising: means for entering a

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request identifying at least one criterion for a transaction by the second party through a network (i.e., RFQ module in the transaction serve subsystem, see paras 0097-0102); means for qualifying the first party to a set of minimum attributes (i.e., Once a substantial number of RFQ's or bids are submitted to the transaction facilitator, the system can build a profile defining what most buyers and suppliers consider to be minimally acceptable levels of quality, see paras 0074-0075); means for identifying a qualified first party to engage in the transaction based on at least one criterion(see abstract, also see software filter paras 0032-0033) ; means for providing an identification of the first and second parties to engage in the transaction(i.e., Preferably, each buyer, supplier, and third-party service provider gains access or "membership" to system 100 by registering with the system operator, the system operator typically will collect information regarding the identity of the participant, the party's financial information, the goods/services in which the participant trades, and etc, see paras 0029-0030).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



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4. Claims 1, 3-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's disclosure (see background of the invention).

Re claims 1, 3-19. The applicant makes the following disclosure in the background of the invention "In a tender purchasing method in the related art, a company or an agency gives a public notice of a tender content such as an item, a tender method, tender date, tender place, or required documents, etc. After that, the responses to the tender are screened by hand, a bidder is selected on the basis of the screening result, and an order is placed. Recently, the purchasing technology has been applied to the internet where a notice of tender is performed and tender documents are received over the internet. In other words, the notice of tender or documents acceptance, etc. performed by hand in the tender purchasing method in the related art is performed using the internet." Since Claims 1-19 merely recites the automation of the manual purchasing method stated supra, merely providing an automatic means to replace a manual activity (i.e., paper process) which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 120 USPQ 193, 194 (CCPA 1958). In other words, there is no enhancement found in the claimed step other than the known advantage of increased speed/efficiency. The end result is the same as compared to the manual method (i.e., ink and paper process). It would have been obvious to a person of ordinary skill in the art at the time of the invention to automate the recited steps in claims 1-19 because this would speed

up the determining steps which is purely known and expected result from automation of what is known in the art.

5. Claims 27 rejected under 35 U.S.C. 103(a) as being unpatentable over DE.

Re claim 27. DE does not explicitly disclose the network based sales generation system wherein the registering unit comprises a dynamically generated application form to be completed by a vendor and compared to the set minimum attributes and stored in the database if the vendor meets or exceeds the minimum attributes. However, DE discloses registering with the system operator wherein the system operator typically will collect information regarding the identity of the participant, the party's financial information, the goods/services in which the participant trades, and etc (see paras 0029-0030 of DE), and this information may be stored in one or more databases. It is well known in the art that when data are stored in the database, they are usually stored in database query forms. Thus, it would be obvious to one of ordinary skill in the art to generate this form automatically using the system of DE in order for buyers and suppliers to have easy access to the forms and to the data contained therein.

#### **(10) Response to Argument**

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of independent claims 20 and 34.** Appellant argues in substance that the primary reference, DE does not disclose identifying whether vendors satisfy minimum attribute set by a buyer but rather discloses products and factories of suppliers being evaluated by an independent organization. Contrary to the

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applicant's assertion, in the same column cited in the remarks by the applicant (i.e., DE col.2, lines 1-4), DE discloses that the structure and dynamics of the market to both buyers and suppliers are such that the need for intermediaries are eliminated. However, since buyers and suppliers may continue to require the services provided by third-parties, the services provided by third-parties, system 100 provides a transactional link through which the services can be retained. DE system is preferably organized so that the third-party service providers are not able to interfere with the direct negotiations between buyers and suppliers (see para 0033). The examiner further asserts that DE explicitly discloses identifying whether vendors satisfy minimum attribute set by a buyer i.e., remote buyers can develop RFQ's defining both the objective configurations (i.e., product type, package size, quantity, delivery requirements, etc.) and subjective characteristics (i.e., flavor, aroma, texture, etc.) of the product. The buyer then sends the RFQ to the transaction facilitator for presentation to suppliers located throughout the world. In response, interested suppliers may develop quotations (also referred to herein as quotes or bids) to provide the product specified in the RFQ for a particular price. The suppliers' bids are sent to the transaction server subsystem for presentation to the buyer, who may accept a bid or make a counter-offer, see paras 0031-0032 of DE). **Note that buyers activation of filter software to screen offers based on product type, supplier, country of origin, etc (see DE para 0032)** constitute identifying whether vendors satisfy minimum attribute as claimed by the applicant.

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of independent claim 26.** The appellant further argues that DE does not disclose an engine to select a qualified vendor for the buyer based on the database information and selection criteria. The examiner asserts that software filters, disclosed by DE to screen offers based on product type, supplier, country of origin (see DE para 0032), constitute an engine to select a qualified vendor for the buyer, as disclosed by the applicant. Selection engine as used in the present situation is nothing but software written to perform a selection task, and thus akin to the software filters disclosed by DE.

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of dependent claim 21.** The appellant further argues that DE fails to disclose wherein the selection criteria comprises geographic region, business type or price. Contrary to the appellant's assertion, DE discloses wherein the selection criteria comprises geographic region, business type or price (i.e., buyers can activate software filters to screen offers based on product type, supplier, country of origin, etc, see paras 0032-0033, also see paras 0021-0022 of DE).

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of dependent claim 22.** The appellant further argues that DE fails to disclose notifying the selected vendor of having been selected. Contrary to the appellant's assertion, DE discloses notifying the selected vendor of having been selected (i.e., Once the buyer accepts the supplier's bid or counter-offer, an

acceptance is transmitted to the supplier and the transaction proceeds toward completion, paras 0048-0049 of DE).

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of dependent claim 23.** The appellant further argues that DE fails to disclose wherein the notification is through one of e-mail, file transfer protocol, integration technology, DCOM, XML, CORBA, HTTP, wireless devices or instant messaging. Contrary to the appellant's assertion, DE discloses wherein the notification is through one of e-mail, file transfer protocol, integration technology, DCOM, XML, CORBA, HTTP, wireless devices or instant messaging (i.e., In any event, the RFQ is sent to each of the appropriate suppliers via the Internet such as by instant messaging, e-mail, see paras 0040-0041 of DE).

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of dependent claim 24.** The appellant further argues that DE fails to disclose wherein the buyer provides the vendor selection criteria. DE discloses RFQ's defining both the objective configurations (i.e., product type, package size, quantity, delivery requirements, etc.) and subjective characteristics (i.e., flavor, aroma, texture, etc.) of the product (see paras 0031 of DE). DE further discloses that the buyer then sends the RFQ to the transaction facilitator for presentation to suppliers located throughout the world. Thus the RFQ'S which defines the objective and the subjective characteristics of the product is akin to the vendor selection criteria.

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of dependent claim 25.** The appellant further argues that DE fails to disclose the method of matching vendors to buyers through a network, wherein the buyer is prompted to input selection criteria through one or more capture forms. Contrary to the appellant's assert, DE discloses the method of matching vendors to buyers through a network, wherein the buyer is prompted to input selection criteria through one or more capture forms (i.e., purchase order, see paras 0049-0050 of DE).

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of dependent claim 28.** The appellant further argues that De does not disclose a vendor notification unit to notify registered vendors of selection criteria entered by the buyer and a bid-accepting unit to receive bids from the registered vendors. DE explicitly discloses a vendor notification unit to notify registered vendors of selection criteria entered by the buyer (see DE paras 0046-0047); and a bid accepting unit to receive bids from the registered vendors (see DE paras 0045-0046).

**In response to the appellant's argument concerning the 35 U.S.C. 102(e) rejection of dependent claim 29.** The appellant further argues that DE does not disclose a dynamically generated application form to be completed by the buyer and submitted to the engine, wherein the spatial location engine and the database use the data from the completed dynamically generated application form to select at least one qualified vendor. Contrary to the appellant's assertion,

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DE discloses a dynamically generated application form to be completed by the buyer and submitted to the engine (i.e., RFQ), wherein the spatial location engine and the database use the data from the completed dynamically generated application form to select at least one qualified vendor (see DE paras 0040-0045).

**In response to the appellant's argument concerning the 35 U.S.C. 103(a) rejection of claims 1, 3-19.** The applicant argues in substance that *In re Venner* was inappropriately applied to establish the obviousness of automation of a known process. The applicant makes the following disclosure in the background of the invention "In a tender purchasing method in the related art, a company or an agency gives a public notice of a tender content such as an item, a tender method, tender date, tender place, or required documents, etc. After that, the responses to the tender are screened by hand, a bidder is selected on the basis of the screening result, and an order is placed. Recently, the purchasing technology has been applied to the internet where a notice of tender is performed and tender documents are received over the internet. In other words, the notice of tender or documents acceptance, etc. performed by hand in the tender purchasing method in the related art is performed using the internet."

Since Claims 1-19 merely recites the automation of the manual purchasing method stated supra, merely providing an automatic means to replace a manual activity (i.e., paper process) which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 120 USPQ 193, 194

(CCPA 1958). In other words, there is no enhancement found in the claimed step other than the known advantage of increased speed/efficiency. The end result is the same as compared to the manual method (i.e., ink and paper process). It would have been obvious to a person of ordinary skill in the art at the time of the invention to automate the recited steps in claims 1-19 because this would speed up the determining steps which is purely known and expected result from automation of what is known in the art. For example, If the inventors of the calculator merely claimed " an internet-based automatic system and method of performing mathematical manipulations of input numbers, comprising: addition, subtraction, division, and multiplication of said input numbers, and displaying the output results of said mathematical manipulations on the screen," with nothing more, they would have been rejected under *In Re Venner*. However, the inventors of the calculator claimed the mechanized features, structure and construction of the machine, itself i.e., the central processing unit, the circuitry, the input pad, the display, and the inter-relationship of the parts as it relates to the input signal received; the processing of the input signal, and the display of the result of the manipulation/processing performed on the said input signal. All in all, what distinguishes the applicant's invention from the calculators and computers inventions is that the applicant is broadly automating a known method utilizing a known and existing technology. The applicant is not claiming specific features or structures that make the automation possible, nor is the applicant providing any innovation to the method for which innovation is sought. That is to



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say, there is no enhancement found in the claimed step other than the known advantage of increased speed/efficiency.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

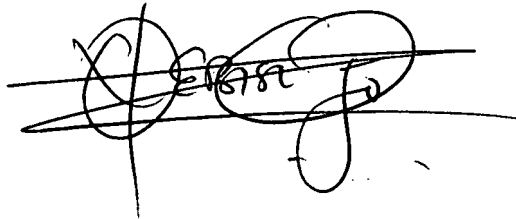
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Ojo O. Oyebisi


Examiner

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A handwritten signature in black ink, appearing to be 'Ojo O. Oyebisi', written over a horizontal line.

Conferees:

James Kramer   
SPE AU 3692

Vincent Millin   
Appeal Specialist